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6 UNITED STATES DISTRICT COURT

7 DISTRICT OF NEVADA

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9 DEREK KIRK,

Case No. 3:13-cv-00490-MMD-VPC

10 Plaintiff,

ORDER

11 v.

12 KEN FURLONG, et al.,

13 Defendants.

14 This prisoner civil rights action comes before the Court on plaintiff's motion for
15 relief from judgment (dkt. no. 7). The motion was filed within the time period for seeking
16 relief under Rule 59 of the Federal Rules of Civil Procedure.

17 The Court dismissed the action without prejudice given that plaintiff sought only
18 injunctive relief and a claim for such relief was moot following upon his transfer from
19 local to state custody. Plaintiff represents in the pending motion that he wishes to seek
20 monetary damages in an effort to avoid dismissal on this basis. The Court will grant the
21 motion, vacate the entry of final judgment, and modify the prior order of dismissal to
22 allow plaintiff an opportunity to file an amended complaint.

23 It is therefore ordered that plaintiff's motion for relief from judgment (dkt. no. 7) is
24 granted to the extent consistent with the remaining provisions herein.

25 It is further ordered that the prior judgment (dkt. no. 6) is vacated and that the
26 prior order of dismissal (dkt. no. 4) is modified to allow for an opportunity to amend.

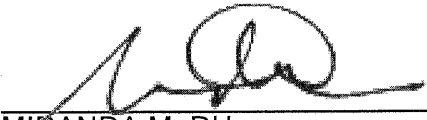
27 It is further ordered that plaintiff shall have thirty (30) days within which to file an
28 amended complaint. If plaintiff does not timely mail an amended complaint that corrects

1 the deficiencies in the prior pleading, final judgment again will be entered dismissing the
2 action without further advance notice.

3 It is further ordered that plaintiff shall clearly title any amended complaint filed as
4 such by placing the word "AMENDED" immediately above "Civil Rights Complaint" on
5 page 1 and shall place the docket number, 3:13-cv-00490-MMD-VPC, above the word
6 "AMENDED" in the space for "Case No." Under Local Rule LR 15-1, any amended
7 complaint must be complete in itself without reference to prior filings. Any allegations,
8 parties, or requests for relief from prior papers that are not carried forward in the
9 pleading no longer will be before the Court.

10 The Clerk shall send plaintiff two (2) copies of a civil rights complaint form, one
11 (1) copy of the instructions for the form, and one (1) copy of his complaint (dkt. no. 5).

12 DATED THIS 19th day of May 2014.

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15 MIRANDA M. DU
16 UNITED STATES DISTRICT JUDGE
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